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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,566	01/16/2004	Jeffrey Louis Viola		5926

7590 10/20/2005

Jeffrey Louis Viola  
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EXAMINER	
NEWTON, JARED W	

ART UNIT	PAPER NUMBER
3634	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/758,566

Applicant(s)

VIOLA, JEFFREY LOUIS

Examiner

Jared W. Newton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 3 are rejected under the second paragraph of 35 U.S.C. 112 as indefinitely claiming the subject matter that the applicant regards as his invention.

*In regard to the claims*, the positive recitations below render the above claims indefinite:

- "...to which one or more remote control units are placed..." on line 4 of claim 1;
- and, "...to attach said remote..." in line 3 of claim 3.

In particular, applicant functionally sets forth the remote control units in line 2 of claim 1 through the recitation "An apparatus for holding and handling a plurality of remote control units" and then applicant improperly seeks to link the functionally recited structure of the remote control units to the positive structure of the apparatus (holding device). Thus, the metes and bounds of the claims referring to said apparatus cannot be properly ascertained since one would not know whether the remote control units are being positively claimed. It appears that it is applicant's intention to solely positively claim the subcombination of the apparatus, and thus the claims have been treated accordingly.

### ***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,527,022 to Gibson.

In regard to claim 1, Gibson discloses a support board 10 comprising a generally flat surface 14 defining a surface on which objects can be mounted (see FIG. 1). Gibson further discloses said surface defined by two generally parallel sides 20 and 24, a perpendicular side 26 and a curved portion opposite of said perpendicular side (see FIG. 1). Gibson further discloses an upswept handle portion 16 that lies in a plane extending from said curved portion at an angle (see FIG. 1).

In regard to claim 2, Gibson discloses an opening disposed in said handle portion 16, said opening comprising edges perpendicular to the plan of the portion in which it is disposed (see FIG. 1).

It is noted that the applicant's limitations, "to which one or more remote control units are placed" in lines 4 and 5 of claim 1 are considered to be met by the Gibson reference since the structure of the reference is capable of allowing remotes to be placed thereon. It is noted that the claim(s) do not positively require a remote in view of the 35 U.S.C. 112 rejection set forth above. Hence, since the Gibson reference could inherently support remote control units, the reference is considered to meet the functional limitations of the claim(s).

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Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,872,702 to Kopel.

In regard to claim 1, Kopel discloses a remote control holder comprising a generally flat surface defining a mounting surface 14 defined by two generally parallel sides 11, a perpendicular side 12 and a curved portion 13 opposite of said perpendicular side (see FIG. 2). Kopel further discloses an upswept handle portion 20 that extending through a plane from said curved portion 13 at an angle (see FIG. 1).

In regard to claim 3, Kopel discloses connective strips 40 used to attach said remote control units to said mounting surface (see FIG. 1).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over '022 to Gibson as applied to claims 1 and 2 above, and further in view of U.S. Patent No. 5,954,208 to Schultz.

Gibson discloses a device including all of the limitations of claim 1, but does not disclose connective strips, straps, or closures used to attach remote control units to said mounting section. Schultz discloses a holder for remote control units comprising a

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plurality of hook and loop fabric fasteners 16 and 60 used to attach said remote control units to said holder. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the hook and loop fasteners as disclosed by Schultz on the board as disclosed by Gibson. The motivation for including said fasteners would be to provide the board to Gibson with a means of securing object thereon when said board is carried or held upside down.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

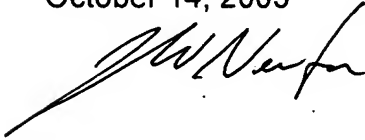
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JWN  
October 14, 2005

A handwritten signature in black ink, appearing to be 'JWN', written in a cursive style.A handwritten signature in black ink, appearing to be 'Richard E. Chilcote, Jr.', written in a cursive style.

**RICHARD E. CHILCOT, JR.**  
**SUPERVISORY PATENT EXAMINER**